

### **REMARKS/ARGUMENTS**

The office action of November 26, 2004 ("the Office Action") has been reviewed and these remarks are responsive thereto. Claims 2-52 and 54-60 are pending in this application. By this amendment, claim 53 has been cancelled and claims 2, 9, 16, 24, 33 and 45 have been amended.

Independent claim 2 has been amended to include the subject matter of claim 53 previously depending therefrom. Independent claims 9, 16, 24, 33 and 45 have been amended to include similar subject matter to that of claim 53 pertaining to a call server exiting a connection.

Claims 2-52 and 54-60 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5, 991,737 to Chen (Chen). Reconsideration and allowance of the instant application are respectfully requested.

Independent claim 2, as amended, recites a call server that performs the step of exiting from the two-way wireless connection between the device associated with the broadcast program and the mobile device. Independent claim 45, as amended, recites a method that includes the step exiting from an interactive connection between a device associated with a host and a mobile terminal. Similarly, independent claims 9, 16, 24, 33 and 45, as amended, recite the subject matter of maintaining a two-way connection, a two-way wireless connection, an interactive connection or a voice connection between a first device and a second device without a call server being involved in the maintained connection. The amendments to independent claims 2, 9, 16, 24, 33 and 45 clarify that the recited two-way, interactive or voice connections are independent connections between the respective entities that do not need to be maintained by the call server. Support for these amendments may be found at least in paragraph 26 of the application as originally filed. As discussed therein, configurations according to these amendments provide the advantage of freeing a call server to establish other two-way, interactive or voice connections without remaining involved with such past connections.

In contrast, Chen discloses a product ordering system that relies upon a processing station 22 acting as an *intermediary* to enable and be involved with any interactions between a consumer 24 and a media content originator 12. Through its role as intermediary, "processing station 22 in effect enables direct and indirect wireless or wired interaction between media content originator

12 and consumer 24.” Chen, col. 4, lines 30-32. It does so ‘in effect,’ rather than in actuality, due to its role as intermediary for any of those interactions.

In other words, the processing station of Chen remains involved in any interactions it establishes ‘in effect’ between the media content originator and the consumer device. As illustrated in Fig. 1, interactions between the media content originator of Chen and the consumer either occur completely indirectly via the processing station, or they are controlled by the processing station when the media content originator sends a product directly to a consumer or indirectly through a retail source. Either way, the processing station *remains involved* in the interactions. As shown in Fig. 2, the order processor 36 of the processing station acts as an intermediary between the media content originator and the consumer when processing consumer orders. As shown further therein, the fulfillment processor 38 of the processing station interacts with the consumer when fulfilling orders, rather than with the media content originator interacting with the consumer, even though fulfillment of the orders may be outsourced as described in col. 5, lines 19-22 and col. 4, lines 26-29. Thus, the system of Chen relies upon the processing station *at all process ordering stages* to act as an intermediary to enable the interactions between the consumer and the media content originator.

As such, the processing station of Chen remains involved in any interactions maintained between the consumer and the media content originator. For at least this reason, Chen does not teach or suggest the recited subject matter of independent claims 2, 9, 16, 24, 33 and 45, as amended, or the subject matter of claims 3-8, 10-15, 17-23, 25-32, 34-44, 46-52 or 54-60 depending from respective ones of these claims. Accordingly, Applicants respectfully submit that claims 2-52 and 54-60 are allowable over Chen.

In addition to this reason, Applicants respectfully submit that independent claims 2, 9, 16, 24, 33 and 45 are allowable over Chen because each of these claims recite the subject matter of establishing a two-way connection, a two-way wireless connection, a voice connection, or an interactive connection between a first device or terminal and a second device or party, which is not taught or suggested by Chen. Although the Office Action proposes a modification to Chen to provide these recited connections, the proposed modification is not obvious and there is no

reasonable expectation of success to modify the one-way, product ordering system of Chen according to the proposal.

The Office Action admits that Chen “does not explicitly mention that the request [is] made by the mobile device specifying for an interactive (two-way voice or data) wireless connection” and the steps of sending and receiving connection requests. The premise of the Office Action to support its obviousness conclusions is that the processing station of Chen “*decides whether or not to establish the direct wireless interaction* between the [consumer] 24 and the device associated with the broadcast program 12, 14.” Emphasis added. Office Action, page 3. This is an incorrect characterization of Chen and is a flawed lynchpin of the obviousness argument. The Office Action continues that it would have obvious to permit a user to specify the type of connection in the request, such as a two-way connection, for the advantage of user friendliness. However, there is no connection request in Chen at all, and a modification to the product ordering request actually disclosed in Chen to provide the recited connections is unreasonable for the Chen system and certainly would not have been obvious.

In particular, the lynchpin premise of the Office Action is flawed, at least because Chen does not teach or suggest any decisions regarding the type of interactions between the consumer and the media content originator, much less decisions for two-way, voice or interactive connections or requests for these connections. The Office Action points to col. 4, lines 18-33 to support its basic premise that the Chen system discloses a decision whether to establish a direct wireless interaction. However, this portion of Chen merely discloses decisions at the processing station regarding the processing of orders, not the type of connection or whether to establish it. According to this portion of Chen, the processing station may decide to “initiat[e] action desired by the consumer (such as the purchase of a product)” (col. 4, lines 20-21), to provide “feedback, an acknowledgement or a request for additional information (such as an account number)” (*id.* at lines 22-23), to fulfill an order (*id.* at lines 24-25), or to communicate with the media content originator to have the order fulfilled (*id.* at lines 26-29). These decisions are basic order processing decisions that are unrelated to a type of connection between the consumer and the media content originator or whether to establish a connection. Thus, Chen does not disclose or suggest processing decisions related to the type of connection between the consumer and the

media content originator, much less requests to establish two way, voice or interactive connections. As such, Chen does not disclose the decision asserted in the Office Action of “whether or not to establish the direct wireless interaction” or the recited two way, voice or interactive connections of claims 2, 9, 16, 24, 33 and 45.

Further, there is no reasonable expectation of success that a processing decision for a two-way interaction request between the media content facilitator and the consumer, if permitted, could be supported by the system of Chen. There is no suggestion that the media content originator could interact with consumers beyond sending requested products if instructed to do so by the processing station. Further, it is unreasonable to assume that the media content originator could do so, as the processing station is established as an intermediary for interacting with consumers in an automated manner that does not burden the media content originator. Thus, a consumer request for a direct interaction with the media content originator would likely be dismissed by the processing station. The only disclosed interaction between the media content facilitator and the consumer in Chen is a one-way, order-fulfillment, shipping relationship from the media content originator to the consumer. It is unreasonable to expect that such a system could be successfully modified to provide the direct wireless interaction proposed in the Office Action or the recited two-way, voice or interactive connection of claims 2, 9, 16, 24, 33 and 45.

Because the system of Chen does not make connection decisions or decide whether to establish a direct wireless interaction as asserted in the Office Action, the proposed modification of Chen would not have been obvious. In addition, there is no reasonable expectation of success to modify the one-way, product ordering system of Chen according to the proposal to provide the recited two-way, voice or interactive connections of these independent claims. For these additional reasons, Applicants respectfully submit that independent claims 2, 9, 16, 24, 33 and 45, and claims 3-8, 10-15, 17-23, 25-32, 34-52 and 54-60 depending therefrom, are allowable over Chen.

Appln. No.: 10/015,780  
Amendment dated DRAFT  
Reply to Office Action of November 26, 2004

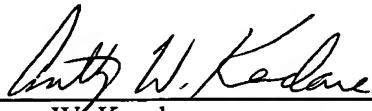
Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: February 28, 2005

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